

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ANTHONY BRODZKI,)
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Plaintiff,)
)
)
v.) No. 4:11CV648 JCH
)
)
CITY OF ST. LOUIS,)
)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court upon the motion of Anthony Brodzki for leave to commence this action without prepayment of the filing fee pursuant to 28 U.S.C. § 1915. Upon consideration of the financial information provided with the motion, the Court finds that plaintiff is financially unable to pay any portion of the filing fee. As a result, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Additionally, the Court has reviewed the complaint and will dismiss it pursuant to 28 U.S.C. § 1915(e)(2)(B).

28 U.S.C. § 1915(e)

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court must dismiss a complaint filed in forma pauperis if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief. An action is frivolous if it “lacks an arguable basis in either law or fact.”

Neitzke v. Williams, 490 U.S. 319, 328 (1989); Denton v. Hernandez, 504 U.S. 25, 31 (1992). An action is malicious if it is undertaken for the purpose of harassing the named defendants and not for the purpose of vindicating a cognizable right. Spencer v. Rhodes, 656 F. Supp. 458, 461-63 (E.D.N.C. 1987), aff'd 826 F.2d 1059 (4th Cir. 1987). A complaint fails to state a claim if it does not plead “enough facts to state a claim to relief that is plausible on its face.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

The Complaint

Plaintiff brings this action under 42 U.S.C. § 1983 and state law. Plaintiff alleges that someone told him to leave St. Louis because he was “supposedly an ex pedophile.” Plaintiff says, “They threw me out of the city by using noise from officers and dispatch centers directed right at me in the city through squads.”

Discussion

An action is factually frivolous if the facts alleged are “clearly baseless”; alleged facts are clearly baseless if they are “fanciful,” “delusional,” or “fantastic.” Denton v. Hernandez, 504 U.S. 25, 32-33 (1992). The allegations in the complaint are delusional, and therefore, they are factually frivolous under Denton.

Moreover, to state a claim against a municipality, plaintiff must allege that a policy or custom of the government entity is responsible for the alleged constitutional

violation. Monell v. Dep't of Social Services, 436 U.S. 658, 690-91 (1978). The instant complaint does not contain any allegations that a policy or custom of the City of St. Louis was responsible for the alleged violations of plaintiff's constitutional rights. As a result, the complaint fails to state a claim upon which relief can be granted.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1915(e).

Dated this 25th day of April, 2011.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE